

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/668,712	RASCON, ROBERT	
	<b>Examiner</b>	<b>Art Unit</b>	
	M. Safavi	3673	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to January 26, 2006.
2. ☒ The allowed claim(s) is/are 1-13, 18 and 21.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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| <ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____</li> </ol> |
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### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Cancel claims 14-17, 19, and 20.

The after final amendment filed January 26, 2006 fails to comply with the provisions of 37 CFR 1.121(c). Therefore, the after final amendment filed January 26, 2006 will not be entered. However, in view of Applicant having submitted the requisite fee of \$510.00 for the appropriate three month extension of the shortened statutory period for reply to the July 10, 2005 final Office action, an amendment canceling the non-allowable claims is presented herewith.

Applicant, in a phone conversation on January 26, 2006, had communicated with Examiner his desire to cancel all finally rejected claims and proceed with allowed claims 1-13, 18, and 21 in order to pass the application to allowance. Examiner at that time informed Applicant of a need for a three month extension to extend the shortened statutory period of response to January 28, 2006. Mr. Leavitt had stated that since no charge could be made for an appropriate extension of time he would submit an amendment canceling the rejected claims along with submitting a check to cover the fee for a three month extension of time. With the receipt of Applicant's after final

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amendment instructing to cancel rejected claims 14-16, 19, and 20 as well as the receipt of a check for \$510.00 to cover the fee for the appropriate three month extension of time, Examiner is taking the amendment and submission of extension fee as fulfilling the requirements for a telephonic interview agreeing to cancel non-allowed claims 14-16, 19, and 20 in order to place the application in condition for allowance. As such, the above Examiner's amendment is being made.

Authorization for this examiner's amendment was given in a telephone interview with Mr. John Leavitt on January 26, 2006.

Applicant had improperly presented the complete language of cancelled claim 17 in the response of March 29, 2005 which claim has been designated as "cancelled" in the same response. Therefore, the above instruction to cancel claim 17 serves to avoid any confusion as to the particular claims passing to allowance.

### ***Drawings***

The drawings filed on September 23, 2003 are accepted.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

M. Safavi  
February 08, 2006

  
